



R.C.S. No. 187/2019  
Yeshwant V/s. Raosaheb  
and Ors.3

**ORDER BELOW EXH. 26**  
**CNR No.MHLA150009352019**

1] This is an application filed by the defendant No.2 to 5 under Order XXVI Rule 9 of the Code of Civil Procedure for appointment of Dy. Superintendent of Land Record, Chakur as Court commissioner for conducting joint measurement of Land of plaintiff and defendant in Gat No.15, 24, 28 and 30 situated at Nagdarwadi, Tq. Chakur, Dist. Latur.

2] Brief facts of the case is that, present suit has been filed for declaration of ownership, recovery of possession and perpetual injunction. Plaintiff is owner and possessor of land Gat No. 15/2 Adm. 2 H. 00 R., land Gat No. 30 Adm. 1 H. 24 R. and land Gat No. 28 Adm. 00 H. 14 R., defendant No.1 is the owner and possessor land Gat No. 15 Adm. 2 H. 02 R. and land Gat No. 30 Adm. 1 H. 88 R. where as defendant No. 2 is the owner and possessor of land No. 15 Adm. 2 H. 42 R. and defendant No.3 is the owner and possessor of land No. 15 Adm. 1 H. 29 R. and defendant No.4 is the owner and possessor of land No. 15 Adm. 2 H. 11 R., land Gat No. 24/1 Adm. 1 H. 20 R. and land Gat No. 30 Adm. 00 H. 03 R.

3] Present application filed by the defendant No. 2 to 4 to appoint Taluka Inspector of land record (T.I.L.R.), Chakur as a court commissioner for carrying out joint measurement. It is further contended that, the present suit is filed for recovery of possession of encroachment on the land of plaintiff by defendants. Plaintiff and defendants are adjacent land holders. Hence, for deciding the encroachment, if any and in order to elucidate matter in dispute between the parties, it is necessary to conduct joint measurement of land of plaintiff and defendants in Gat No.15, 24, 28 and 30 through Taluka Inspector of land record (T.I.L.R.), Chakur. So, by present application the defendant No.2 to 4 have prayed to appoint T.I.L.R. as court commissioner in order to carry out joint measurement. This application is supported with

affidavit.

4] On the other hand, plaintiff filed his say on the back leaf of the application vide Exh.26 and filed no objection to allow this application.

5] Perused the application and say thereon. Heard learned advocate for both side. Order 26 Rule 9 of the Code of Civil Procedure states the appointment of court commissioner for making local investigation. The court can issue court commission for the purpose of local investigation in order to elucidating any matter in dispute. The court commissioner also can be appointed in boundary dispute or in encroachment suits. The present suit is for possession of encroached land, ownership and perpetual injunction. So, the defendant No.2 to 4 intents to bring on record the factual position of their land.

6] It is settled principal of law that the court commissioner needs to be appointed in the encroachment suit. The report of court commissioner will help to elucidate the matter. So also, plaintiff filed no objection to allow this application. Hence, as prayed by the defendant No.2 to 4, it is necessary to appoint T.I.L.R. Chakur as a court commissioner. Hence, I pass the following order.

### **ORDER**

1. The application at Exhibit 26 is hereby allowed, as under
2. The T.I.L.R., Chakur is hereby appointed as a Court Commissioner for carrying out the joint measurement of land of plaintiff and defendant in Gat No.15, 24, 28 and 30 situated at Nagdarwadi, Tq. Chakur, Dist. Latur and fix the boundaries of the land of plaintiff and defendant No.2 to 4 and to show the encroachment, if any, and submit its report within two months.
3. TILR, Chakur shall serve intimation notice to the parties and adjacent land owner before the date scheduled for carrying out measurements.

4. TILR, Chakur shall prepare his detailed report along with Map and shall submit the same on record of the this court as early as possible after carrying out measurements.
5. Defendant No. 2 to 4 shall deposit the charges of court commissioner directly in the office of TILR, Chakur.
6. Defendant No. 2 to 4 are directed to pay the requisite fees of measurement in the office of TILR, Chakur.
7. Defendant No. 2 to 4 are directed to supply all the necessary documents to the court commissioner.
8. The copy of this order be given to the court commissioner free of costs.
9. Office to issue necessary writ.

**Date :16/01/2023**

**( M.S. Luniya )  
Jt. Civil Judge Jr. Division,  
Chakur.**

## C E R T I F I C A T E

I affirm that the contents of this P. D.F. file order are same word for word as per original order.

Name of Jr. Clerk	: Atul Lalasaheb More
Court Name	: M.S. Luniya, Jt.C.J.J.D., Chakur.
Order Date	: <b>16/01/2023</b>
Order signed by presiding officer on	: <b>16/01/2023</b>
Order uploaded on	: <b>16/01/2023</b>